

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

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|--------------------------------|---|-------------------------|
| IN RE: | § | CASE NO. 07-41092-BTR-7 |
| ROBERT EDWIN JACOBSEN | § | |
| DEBTOR | § | CHAPTER 7 |
| | § | |
| AURORA LOAN SERVICES, LLC, ITS | § | |
| SUCCESSORS AND ASSIGNS | § | |
| MOVANT | § | |
| VS. | § | |
| ROBERT EDWIN JACOBSEN, DEBTOR | § | |
| AND CHRISTOPHER MOSER, TRUSTEE | § | |
| RESPONDENTS | § | |

**MOTION OF AURORA LOAN SERVICES, LLC, ITS SUCCESSORS
AND ASSIGNS FOR RELIEF FROM STAY OF ACT AGAINST PROPERTY
(WAIVER OF SECTION 362(e) REQUIREMENT IF APPLICABLE)**

NO HEARING WILL BE CONDUCTED ON THIS MOTION FOR RELIEF UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FIFTEEN (15) DAYS FROM DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH REQUESTS FOR HEARING. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

A TIMELY FILED RESPONSE IS NECESSARY FOR A HEARING TO BE HELD.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW **AURORA LOAN SERVICES, LLC**, ITS SUCCESSORS AND ASSIGNS (hereinafter Movant), secured creditor and party in interest to the above-styled bankruptcy proceeding and files this Motion for Relief from Stay of Act Against Property. In support of its Motion, Movant would respectfully state unto the Court as follows:

I. JURISDICTION

1. This Court has jurisdiction of this matter pursuant to 28 U.S.C. §1334 and 11 U.S.C. §§105 and 362.
2. This is a core proceeding under 28 U.S.C. §157(b)(2)(G).

II. FACTS

3. On or about May 25, 2007, ROBERT EDWIN JACOBSEN (hereinafter Debtor) filed a Voluntary Petition For Relief under Chapter 13 of the Bankruptcy Code, and said case was converted to a Chapter 7 on December 5, 2007, thereby initiating the above-styled Bankruptcy Case. CHRISTOPHER MOSER is the duly appointed and acting Chapter 7 Trustee.

4. On January 4, 2007, Alise Malikyar executed a Note ("Note") in the original principal amount of \$156,750.00, payable to the order of PrimeLending, a PlainsCapital Company.

5. Concurrently with the execution of the Note, Alise Malikyar, a married woman, executed a Deed of Trust granting Movant a lien on certain real property ("Property") to secure payment of the Note. The Deed of Trust grants Movant a lien on the Property described as follows:

BEING LOT 28 IN BLOCK J OF BETHANY RIDGE ESTATES II, PHASE B, AN ADDITION TO THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME K, PAGE 300, MAP RECORDS, COLLIN COUNTY, TEXAS.

**Also known as:
1309 CASSANDRA LANE
ALLEN, TX 75002-3657**

The Deed of Trust was duly recorded in COLLIN County Deed Records.

6. Debtor alleges to own the above described real estate as he has scheduled such ownership interest in 1309 Cassandra Lane per the Amended Schedule A filed by Debtor amended on March 13, 2008.

Debtor does not claim an exemption on such real estate and as such, the property is a non-exempt asset of the estate.

7. Per Schedule D, Debtor listed a secured debt owing Aurora Loan Services and as of the filing of this Motion, the following account is delinquent as follows:

- a) The account is contractually due for February, 2008, and subsequent months. Payments are currently \$1,632.13 per month. An affidavit is attached in support of such delinquency.
- b) Additional fees include Movant's reasonable attorney fees and costs in an amount not to exceed that set by local rule, practice, or order.

III. RELIEF FROM THE STAY

8. Movant requests that this Honorable Court terminate the automatic stay pursuant to the provisions of the Bankruptcy Code to allow Movant to exercise all of its rights and remedies against the Debtor under state law, including, inter alia, foreclosing its lien on the Property, or in the alternative to set forth a time certain for the trustee to sell such property and if such property is not sold by that date, a requirement compelling abandonment of the trustee's interest in the real estate.

9. Movant alleges that cause exists for the lifting of the stay and Movant's interest is not adequately protected.

10. It has been necessary for Movant to hire the law firm of *Codilis & Stawiarski, P.C.* to collect the debt owed to it through this Court. Pursuant to the Note and Deed of Trust, Movant is entitled to reimbursement of its reasonable attorneys' fees for their services.

11. Movant requests that an Order granting its motion for relief from automatic stay, if such Order should be entered, will be effective immediately upon entry and, Rule 4001 (a) (3) is waived, and enforcement of such Order will not be stayed until the expiration of ten days after entry of the Order.

WHEREFORE, PREMISES CONSIDERED, Movant prays that this Court enter an Order granting relief from the automatic stay to allow Movant to exercise and enforce all its rights and remedies

against the Debtor as a secured creditor and perfected lienholder to the Property; including, but not limited to, payment of bankruptcy attorney fees and costs, foreclosure and disposition of the Property, payment of costs, expenses, and reasonable attorneys' fees in accordance with the terms of the Note and Deed of Trust, and for such other relief, including an order allowing the trustee a certain time to sell with a requirement to abandon if such real estate has not sold within a certain time period, to which Movant may show itself justly entitled, either at law or in equity.

Respectfully submitted,
Codilis & Stawiarski, P.C.

By: /s/ Lisa L. Cockrell
Lisa L. Cockrell SBOT 24036379
Angela K. Randermann SBOT 24029787 (31688)
Lauren E. Beck SBOT 24047785
650 N. Sam Houston Parkway East, Suite 450
Houston, Texas 77060 (281) 925-5200
Facsimile: (281) 925-5300
ATTORNEYS FOR MOVANT

CERTIFICATE OF SERVICE

I hereby certify that on March 30, 2009, a true and correct copy of the above and foregoing documents shall be served via electronic means, if available, otherwise by regular, first class mail on March 30, 2009 to the following parties at the addresses indicated by deposit in the United States Mail, first class postage prepaid.

ROBERT EDWIN JACOBSEN
P.O. BOX 1386
LAFAYETTE, CA 94549
PRO SE DEBTOR

CHRISTOPHER MOSER
2001 BRYAN STREET, SUITE 1800
DALLAS, TX 75201
CHAPTER 7 TRUSTEE

GABRIELLE A. HAMM
SINGER & LEVICK
16200 ADDISON RD., SUITE 140
ADDISON, TX 75001
ATTORNEY FOR CHAPTER 7 TRUSTEE

LARRY A. LEVICK
SINGER & LEVICK
16200 ADDISON RD., SUITE 140
ADDISON, TX 75001
ATTORNEY FOR CHAPTER 7 TRUSTEE

U.S. TRUSTEE
MARCUS SALITORE
US TRUSTEE OFFICE
110 N. COLLEGE AVE., ROOM 300
TYLER, TX 75702
ATTORNEY FOR US TRUSTEE

ENTITY WITH INTEREST IN PROPERTY:
ALISE MALIKYAR
1309 CASSANDRA LANE
ALLEN, TX 75092-3657

UNITED STATES TRUSTEE
EASTERN DISTRICT OF TEXAS
110 NORTH COLLEGE AVENUE
TYLER, TEXAS 75702

CORY NICHOLS
MUIR EXECUTIVE CENTER
535 MAIN ST., 3RD FLOOR
MARTINEE, CA 94553

TIMOTHY E. CARLSON, CPA, PC
C/O MALCOLM A. KING
KING & BARNARD
1850 MT. DIABLO BLVD, SUITE 445
WALNUT CREEK, CA 94579

PARTIES REQUESTING NOTICE:
HAROLD M. JAFFE, ESQ.
3521 GRAND AVENUE
OAKLAND, CA 94610

ECAST FOB WELLS FARGO
BASS & ASSOCIATES, P.C.
3936 E. FT. LOWELL ROAD, SUITE #200
TUCSON, AZ 85712

WELLS FARGO BANK,
BDD-BANKRUPTCY DEPT.
P. O. BOX 53476
PHOENIX, AZ 85072

WELLS FARGO BANK, N.A., SUCCESSOR BY MERGER TO
WELLS FARGO HOME MORTGAGE, INC.
BARRETT DAFFIN FRAPPIER TURNER & ENGLE, L.L.P.
C/O MARY A. DAFFIN
1900 ST. JAMES PLACE, SUITE 500
HOUSTON, TX 77056

AURORA LOAN SERVICES, INC.,
MANN & STEVENS, P. C.
C/O JUNE A. MANN
550 WESTCOTT STREET, SUITE 560
HOUSTON, TX 77007

ROBERT EDWIN JACOBSEN
C/O JOYCE W. LINDAUER
8140 WALNUT HILL LANE
SUITE 301
DALLAS, TX 75231

FORD MOTOR CREDIT COMPANY LLC
BASSEL & WILCOX, P.L.L.C.
C/O GINGER COLVILLE
P. O. BOX 11509
FORT WORTH, TX 76110-0509

TIMOTHY E. CARLSON, C.P.A., A PROFESSIONAL CORPORATION
C/O JOHN E. JOHNSON, ESQ.
3890 W. NORTHWEST HIGHWAY
SUITE 550
DALLAS, TX 752290

CITIMORTGAGE, INC.
C/O BRICE, VANDER LINDEN & WERNICK
P. O. BOX 829009
DALLAS, TX 75382-9009

COUNTRYWIDE HOME LOANS, INC.
BARRETT DAFFIN FRAPPIER TURNER & ENGLE, L.L.P.
C/O MARY A. DAFFIN
1900 ST. JAMES PLACE, SUITE 500
HOUSTON, TX 77056

CHASE HOME FINANCE LLC, SUCCESSOR BY MERGER TO
CHASE MANHATTAN MORTGAGE
BARRETT DAFFIN FRAPPIER TURNER & ENGLE, L.L.P.
C/O MARY A. DAFFIN
1900 ST. JAMES PLACE, SUITE 500
HOUSTON, TX 77056

SAXON MORTGAGE SERVICES, INC.
MCCARTHY, HOLTHUS & ACKERMAN, LLP
C/O COLE D. PATTON
9330 LBJ FREEWAY, SUITE 750
DALLAS, TX 75243

SAXON MORTGAGE
LOAN NUMBER *****0568
1270 NORTHLAND DRIVE SUITE 200
MENDOTA HEIGHTS, MN 55120

WELLS FARGO BANK
18700 NW WALKER ROAD #92
BEAVERTON, OR 97006

AURORA LOAN SERVICES LLC
327 INVERNESS DR., SOUTH
ENGLEWOOD, CO 80112
MOVANT

By: /s/ Lisa L. Cockrell
Lisa L. Cockrell SBOT 24036379
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